

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

-v-

21-CV-

\$5,225 UNITED STATES CURRENCY,

Defendant.

VERIFIED COMPLAINT FOR FORFEITURE

The United States of America, by its attorney, James P. Kennedy Jr., United States Attorney for the Western District of New York, Paul C. Parisi, Assistant United States Attorney, of counsel, for its verified complaint herein alleges as follows:

INTRODUCTION

1. This is an action in rem for the forfeiture of \$5,225 in United States Currency, (hereinafter referred to as “defendant currency”) which is a portion of the seized currency totaling \$6,325, which was seized from the residence of Pablo O. Alicea (hereinafter “ALICEA SR.”) and his wife, Diana Alicea, and from the vehicle owned by their son, Pablo E. Alicea (hereinafter “ALICEA JR.”) pursuant to 21 U.S.C. § 881(a)(6).

2. This Court has subject matter jurisdiction of this action pursuant to the provisions of 28 U.S.C. §§ 1345 and 1355(a), in rem jurisdiction pursuant to 28 U.S.C. §§ 1355(b) and 1355 (d). Venue is properly premised in the Western District of New York pursuant to 28 U.S.C. § 1395 and 21 U.S.C. §881(j).

3. On May 18, 2020, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), with assistance from the Buffalo Police Department (BPD), did seize \$6,325 in United States currency after a court-authorized search was executed at 2052 Niagara Street, Buffalo, New York (residence of ALICEA SR. and Diana Alicea). The defendant currency was seized on the basis that it was furnished or intended to be furnished in exchange for a controlled substance, as proceeds traceable to exchanges of controlled substances, and/or had otherwise been used to facilitate a violation of 21 U.S.C. § 801 et. seq. The defendant currency was converted to a check and deposited into an account under the custody of the United States Marshals Service, Buffalo, New York.

SEIZURE OF DEFENDANT CURRENCY

4. BPD and ATF have been involved in conducting investigations into the drug trafficking activities of individuals and illegal firearm possession and use, in the Buffalo, New York area. On May 15, 2020, the Honorable Susan Eagan, Erie County Judge, issued a search warrant for the person of ALICEA JR., the premises identified at 2052 Niagara Street, and a 2005 Blue Ford Expedition.

5. On May 18, 2020, law enforcement executed the search warrant. Upon entering 2052 Niagara Street, BPD SWAT observed ALICEA JR. jumping out of the first-floor rear bedroom window with a firearm. Then, ALICEA JR. fired a round from his pistol toward one of the BPD SWAT officers. ALICEA JR.'s pistol jammed when he attempted to fire his pistol again at BPD SWAT. He fled to the backyard of the residence, where he was apprehended.

6. BPD SWAT officers approached a vehicle parked in front of 2052 Niagara Street. ALICEA SR. and Cesarae Thomas ("THOMAS") were in the vehicle. As the officers approached the vehicle, THOMAS told them that he had a gun. The ATF Agents recovered the firearm from THOMAS.

7. Law enforcement conducted the search of 2052 Niagara Street, Buffalo, New York. The following items were seized for evidence and/or forfeiture pursuant to Title 21, U.S.C., § 881(a)(6) during that search and as set forth in paragraphs 5 and 6 above:

ITEM	LOCATION
a. One Glock, Model 19X, 9mm bearing serial number BHLW703 with an extended magazine, containing 19 rounds of 9mm ammunition	ALICEA JR dropped the firearm in an alleyway in close proximity to 2050 Niagara St., Buffalo NY.
b. One Taurus, 9mm Luger semi-automatic pistol, bearing serial number TLU73227, with magazine containing 12 rounds of 9mm ammunition	On THOMAS's person
c. Four large bags each containing a suspected cutting agent, one large bag containing approximately 26.92 grams of cocaine, approximately 50	ALICEA JR.'s bedroom

multiple large bags of marijuana, one empty gun case, loose ammunition, marijuana packaging materials, approximately six cellular phones, a Pyrex bowl filled with white powder, and U.S. currency	
d. Ammunition	First floor laundry room
e. One bag of suspected cocaine, one bag of marijuana, two digital scales, and U.S. currency	ALICEA SR's bedroom
f. One large zip lock bag containing suspected cutting agent	On the steps between the first and second bedroom
g. Two bags of marijuana	ALICEA SR's fanny pack which was on his waist
h. One bag containing ammunition	Bathroom cabinet

8. On May 19, 2020, law enforcement searched the 2005 Ford Expedition owned by ALICEA JR. and found six (6) plastic bags containing marijuana inside a jacket pocket on the rear passenger seat. These bags were seized for evidence.

9. United States currency totaling \$6,325 was located throughout the residence and ALICEA JR.'s vehicle. Specifically, currency was found in ALICEA JR.'s bedroom in a shoebox near large bags of marijuana and next to an empty gun case. Currency was also located in ALICEA SR.'s bedroom in a drawer, most of which was banded together with rubber bands near a large plastic bag containing marijuana and a digital scale. Upon the search of ALICEA JR.'s vehicle, loose currency was found in a jacket pocket close to the plastic bags containing marijuana which were packaged for distribution.

10. Based upon training and experience of the law enforcement officers involved, cash is the almost exclusive medium of exchange for drug dealers. Also, narcotics couriers and traffickers are known to package currency in tightly bound rubber banded bundles, like some of the defendant currency was bundled in ALICEA SR's bedroom. Further, narcotics traffickers also utilize scales and packaging, like the scale and packaging recovered in the residence, for the purpose of measuring and distributing controlled substances to narcotics users.

11. ALICEA JR., ALICEA SR., and THOMAS were arrested. ALICEA JR. was placed under arrest for violating New York State Penal Law sections: 110/125.27-1 Attempted murder in the first degree; 195.05 Obstruction in the second degree; 205.30 Resisting arrest; 220.16-01 Criminal possession of a controlled substance in the third degree; 220.16-12 Criminal possession of a controlled substance in the third degree; 221.25 Criminal possession of Marijuana in the second degree; and 265.03-01B Criminal possession of a loaded firearm in the second degree. An Erie County Grand Jury voted an indictment charging ALICEA JR. with violating New York State Penal Law §§ 110,125.27(1)(a)(i), 265.03(3), 220.16(1), and 220.16(12).

12. ALICEA SR. was placed under arrest for violating New York State Penal Law sections: 220.03 Criminal possession of a controlled substance in the seventh degree; 220.16-01 Criminal possession of narcotics in the third degree; 220.16-12 Criminal possession of a controlled substance in the third degree; and 221.25 Criminal possession of marijuana in the second degree. An Erie County Grand Jury voted no true bill against ALICEA SR.

13. THOMAS was arrested for violating New York State Penal law section 265.03-03 Criminal possession of a loaded firearm in the second degree. An Erie County Grand Jury voted an indictment charging THOMAS with violating New York State Penal Law § 265.03(3).

INITIATION OF CIVIL JUDICIAL ACTION

14. On July 14, 2020, Diana Alicea, through her attorney Thomas Eoannou, Esq., submitted a claim to the ATF to halt the administrative action and to initiate civil judicial forfeiture proceedings against the defendant currency. To date, there have been no other claims filed.

15. The defendant currency is believed to have been furnished or intended to be furnished in exchange for controlled substances, or was used or intended to be used to facilitate the purchase, or selling of a controlled substance, or constitutes proceeds traceable to such an exchange, and therefore, is subject to seizure and forfeiture to the United States of America pursuant to Title 21, U.S.C., § 881(a)(6).

16. By reason of the foregoing allegations, the defendant currency is subject to seizure and forfeiture pursuant to Title 21, U.S.C., § 881(a)(6).

CONCLUSION AND REQUEST FOR RELIEF

17. Based on all of the foregoing facts, the circumstances surrounding these facts, and the experience and training of the officers involved, there is cause to believe that the defendant currency was furnished or intended to be furnished in exchange for a controlled substance, and was intended to be used to facilitate the sale, receipt, or possession of controlled

substances in violation of 21 U.S.C. § 801 et. seq., and the currency is subject to forfeiture pursuant to 21 U.S.C. § 881(a)(6).

WHEREFORE, the United States of America respectfully requests:

- (1) that an arrest warrant in rem be issued for the arrest of the defendant currency;
- (2) that all persons having any interest therein be cited to appear herein and show cause why the forfeiture should not be decreed;
- (3) that a judgment be entered declaring the defendant currency be condemned and forfeited to the United States of America for disposition in accordance with the law;
- (4) that the costs of this suit be paid to and recovered by the United States of America; and
- (5) that the Court grant such order and further relief as deemed just and proper.

DATED: Buffalo, New York, March 11, 2021

JAMES P. KENNEDY, JR.
United States Attorney
Western District of New York

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UNITED STATES OF AMERICA,

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\$5,225 UNITED STATES CURRENCY,

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STATE OF NEW YORK)
COUNTY OF ERIE) ss
CITY OF BUFFALO)

I, Gerard M. O'Sullivan, being duly sworn, depose and say:

I am a Special Agent of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) assigned to the Western District of New York. I am familiar with the facts and circumstances surrounding the forfeiture action against \$5,225 United States currency. The facts alleged in the Verified Complaint for Forfeiture are true to the best of my knowledge and belief and were obtained during the course of the investigation of the defendant currency from the official files of the ATF, BPD, and subsequently provided to the officials of the United States Department of Justice, United States Attorney's Office.

s/GERARD M. O'SULLIVAN
Special Agent
Bureau of Alcohol, Tobacco, Firearms and Explosives

Subscribed and sworn to before
me this 10th day of March 2021.

s/Gabriela Rodriguez

Notary Public

GABRIELA RODRIGUEZ

Notary Public, State of New York

Qualified in Niagara County

My Commission Expires: 09-04-2022